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Scott M. Steeves
E. Patrick Maguire
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TOWN OF DEDHAM
Commonwealth of Massachusetts



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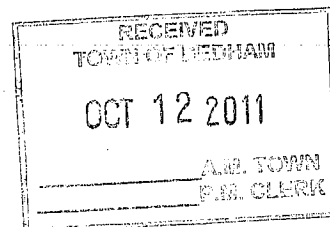
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ZONING BOARD OF APPEALS

26 Bryant Street
Dedham, Massachusetts 02026

DECISION

Case # VAR-08-11-1414
Applicant: SIP Trust
Address: 125 Stergis Way, Dedham, MA
Map/Lot: 150/7A, RDO District
Date of Hearing: September 21, 2011
Date of Filing: October 12, 2011



The Zoning Board of Appeals ("ZBA") of the Town of Dedham, Massachusetts held public hearings on Wednesday September 21, 2011, in the Town Office Building, Bryant Street, Dedham, MA. Present were members of the ZBA, Chairman James F. McGrail, Esq., J. Gregory Jacobsen, Scott M. Steeves, E. Patrick Maguire, and Jason L. Mammone, P.E. The hearings were duly advertised for this meeting of the ZBA in accordance with the requirements of MGL Chapter 40A, Section 11.

At 7:20 p.m., the Chairman called for the hearing on the appeal of SIP Trust, 80 Boxford Road, Rowley, MA. The Applicant seeks to be allowed such special permits and/or variances as may be required for a commercial storage facility with an 18,000 square foot outdoor storage area to be served by a parking lot with 80 parking spaces and for a fence with a height of eight (8) feet. The property is located at 125 Stergis Way, Dedham, in the Research Development & Office (RDO) (HB) Zoning District. *Town of Dedham Zoning By-Law Section, 3.1.3 (Table 1 F.2), Section 5.3.1, Section 5.1.15 (Table 3), and Sections 9.2.2, 9.3 and 10.*

Applicant was represented by Peter A. Zahka, II, Esq., 12 School Street, Dedham, MA. Also present on behalf of Applicant were Curtis Bryant, Manager of Stergis Business Park, and David Campbell PE, Principal, Level Design Group LLC. Attorney Zahka had previously submitted a 5-page Memorandum as well as a plan of the subject property. The transcript from the hearing is the primary source of evidence and is incorporated herein by reference.

The subject property, shown on Dedham Assessors' Map 150 Lot 7A, contains approximately 2.57 acres with approximately 200 feet of frontage on Stergis Way. According to the Zoning Map for the Town of Dedham, the subject property is located in the Research Development & Office (RDO) Zoning District. Currently located on the subject property is a two-story commercial building with a total floor area of approximately 31,000 square feet. The first floor of this building includes approximately 21,000 square feet of commercial storage space and 3,200 square feet of office space (for a total floor area of approximately 24,200 square feet). The second floor contains approximately 6,800 square feet of office space. The subject property was formerly occupied by a telephone company for the storage of equipment, material, and trucks. The existing parking plan for the subject property shows the entire area paved with striping. In practice, however, a large fenced-in portion of the site has been used historically for storage. Currently there is very little landscaping on the site.

Applicant proposes to lease the first floor (24,000 square feet) of the building for use as a commercial storage facility for a company specializing in iron and pvc water pipes, water meters, and related fittings which are sold to and used by utilities and public entities such as municipalities, state, DPWs, and water companies, and contractors working for such entities (but not the general public). Associated with this commercial storage facility is an outdoor storage area of approximately 18,000 square feet. At peak, it is anticipated that there will be 10 to 15 employees with 2 to 4 small trucks for deliveries. The second story of the building will be leased and utilized as office space. Applicant also proposes to modify the existing parking plan and to significantly increase the landscaping at the subject property. As a result, Applicant proposes that the subject building be served by a new parking lot with eighty (80) parking spaces. In sections, the subject property, parking area, and outdoor storage area will be enclosed by an 8 foot high fence.

Line F.2 of Table 1 of the Dedham Zoning By-Law ("Use Regulation Table") provides that a "Commercial Storage" facility is allowed in the RDO Zoning District upon issuance of a special permit by the Zoning Board of Appeals (hereinafter referred to as the "ZBA"). Under Section 5.3.1 and 5.3.2 of the Dedham Zoning By-Law an outdoor storage area exceeding twenty (20%) percent of the square footage of the building requires a special permit from the ZBA. As indicated above, the proposed outdoor storage area is 18,000 square feet which is approximately 75% of the building (first floor). The definition of a "fence" in Section 10 of the Dedham Zoning By-Law provides in pertinent part that, "any fence installation proposed to be in excess of six (6) feet six (6) inches in height shall require a Special Permit from the Zoning

Board of Appeals.” Under Table 3 (“Parking Table”) of the Dedham Zoning By-Law, the subject property would be required to provide 128 parking spaces for the proposed uses. Therefore, Applicant’s proposal for a parking lot with 80 parking spaces requires a variance.

In acting upon requests for special permits, the ZBA must determine that the “adverse effects of the proposed use will not outweigh its beneficial impacts” after consideration of the six (6) enumerated factors set forth in Section 9.3 of the Dedham Zoning By-Law. Pursuant to the authority granted under Section 9.2.2 of the Dedham Zoning By-Law, the ZBA has the power “to hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures as set forth in G.L. c. 40A, § 10.” Applicant respectfully submits it satisfies the requirements and criteria for the issuance requirement of the requested special permits and variances.

The subject property is appropriately located for the proposed use. The building is already in existence. The previous tenant of the subject property operated a commercial storage/warehousing facility of greater intensity with no adverse effects on the surrounding area. While shown as “parking” on the existing parking plan, the proposed 18,000 square foot outdoor storage area has historically been utilized for storage. The subject property is located at the end of Stergis Way off the main roads behind other large commercial buildings and bordering Wigwam Pond. The primary abutter is also a commercial storage type facility (with more trucks and employees than the proposed tenant). The proposed outdoor storage area will be surrounded by a high fence 6 to 8 feet in height. Given the location and the screening the proposed use will not affect the view of the surrounding area.

The Project will serve social, economic, and community needs. Applicant is unaware of other facilities providing the same products in the surrounding area. This Project will serve and be a convenience to those governmental agencies, utilities, and their contractors who need these utilities and supplies for nearby work.

Traffic flow within the site and parking (as modified) adequately serve the Project. As indicated above, the proposed tenant will have minimal employees and vehicles. The facility is not open to the general public (i.e., no retail sales). Due the location at the end of Stergis Way, there will not be vehicles blocking up the main roads surrounding the subject property. The parking lot has been designed to enable potential users (utilities, contractors, etc.) easy use of the same. The parking lot of the subject property is planned accordingly to provide the space

needed for sufficient access to and from the property. In fact, it is anticipated that there will be an excess of parking spaces.

Inasmuch as the building is already in existence (and there are no additions proposed) there is no issue with the adequacy of utilities and public services. Likewise, there is no impact on the environment. Arguably, with the removal of existing pavement and the introduction of significant landscaping, the Project will be improving the environment.

The Project will have a positive fiscal impact on the Town by providing for the occupancy of a now vacant facility. Inasmuch as this is a commercial enterprise (no residential component) it is anticipated that the real estate taxes from the subject property will be greater than the cost of any Town services. There will be some (albeit minimal) employment opportunities.

Without the requested variance for parking, Applicant will be unable to improve the parking lot and the proposed commercial storage facility will be unable to utilize the property. This will result in a significant financial hardship since Applicant will either be required to totally demolish and reconstruct the building in another location on the lot or not proceed with the proposed commercial storage facility. Furthermore, the desired relief may be granted without substantial detriment to the public good and without substantially derogating from the intent and purpose of the Zoning By-Law. The variance will allow for significant improvements to parking lot at the subject property while allowing the commercial storage operation.

Upon motion duly made by J. Gregory Jacobsen and seconded by Scott M. Steeves, the ZBA voted unanimously to grant the requested special permits for an for a commercial storage facility with an 18,000 square foot outdoor storage area to be served by a parking lot with 80 parking spaces and for an fence with a height of 8 feet. In granting of said special permits, the ZBA finds that, after consideration of the criteria in Section 9.3.2 of the Dedham Zoning By-Law, the adverse effects of the Applicant's proposal will not outweigh its beneficial impacts on the Town and neighborhood.

Upon motion duly made J. Gregory Jacobsen and seconded by Scott M. Steeves, the ZBA voted unanimously to grant the requested variances for the subject property to be served by a parking lot with 80 parking spaces. In granting said variances, the ZBA finds that the Applicant has satisfied the requirements Section 10 of Chapter 40A of the General Laws of Massachusetts, to wit: owing to circumstances a literal enforcement of the Dedham Zoning By-

Law requirements would cause a substantial financial hardship to Applicant, and that the relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Dedham Zoning By-Law.

Applicant is advised that, in accordance with MGL Chapter 40A, Section 11, no variance shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed and that no special permit shall take effect until a copy of this decision bearing the certification of the Dedham Town Clerk that twenty days have elapsed after the decision has been filed with the Dedham Town Clerk and no appeal has been filed or that an appeal has been filed within such time shall be recorded in the Norfolk County Registry of Deeds or the Land Registration Office of Norfolk County.

Dated: October 12, 2011

James F. McGrail, Esq.
James F. McGrail, Esq., Chairman

J. Gregory Jacobsen 10/11/11
J. Gregory Jacobsen

Scott M. Steeves
Scott M. Steeves

E. Patrick Maguire
E. Patrick Maguire

Jason L. Mammone
Jason L. Mammone, P.E.